

No. 14/13/87-6Lab/166. - In pursuance of the provisions of section 12 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer Industrial Tribunal-cum-Labour Court Ambala in respect of the dispute between the workmen and the management of M/s Engineer-in-Chief PWD (B & R) Haryana (Chandigarh versus S/Shri. Paras Ram, Garibu, Ram Phal etc.

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT & SESSIONS JUDGE)
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 216 of 90

SARAVSHRI PARAS RAM, SON OF KHELLA RAM, GARIBU, SON OF SHRI SHANKAR,
RAM PHAL, SON OF SHRI RAM CHAND, AMAR SINGH SON OF SHRI KISHANA
RAM RAMESH, SON OF SHRI RAM CHAND, KIRSHAN, SON OF SHRI RATI
RAM, AMAR NATH SON OF SHRI ANANT RAM, PAIRA LAL, SON OF SHRI NATHU RAM,
ROSHAN LAL, SON OF SHRI WASAKHI RAM, AJMER, SON OF SHRI PURAN CHAND,
RAM KISHAN, SON OF SHRI MAM RAJ, PRABHU RAM, SON OF SHRI RULI RAM
AND MADAN LAL, SON OF SHRI BARKHI RAM .. Workmen

and

ENGINEER-IN-CHIEF P. W. D. (B & R) HARYANA, CHANDIGARH

(2) EXECUTIVE ENGINEER, P. W. D. (B & R) DIVISION NO. 2, KURUKSHETRA

.. Managements.

Present :

WR. Shri Jasbir Singh.

MR. Shri Jagmal Singh, ADA.

AWARD

In exercise of the powers conferred by clause (c) of sub-section 8 of section 10 of the Industrial Disputes Act 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workmen Sarav Shri Paras Ram, Garibu Ram Phal, Amar Singh, Ramesh, Kirshan, Amar Nath, Paira Lal, Roshan Lal, Ajmer, Ram Kishan, Prabhu Ram and Madan Lal and the Management Engineer-in-Chief, P.W.D. (B & R) Haryana, Chandigarh and (2) Executive Engineer, P.W.D. (B & R) Division No. 2, Kurukshetra to this court for adjudication, ---vide Haryana Government notification bearing No. 26899- 904, dated 27th June, 1990 :-

"Whether the termination of the services of Shriv Shri Paras Ram, Garibu Ram Phal, Amar Singh, Ramesh, Krishan, Amar Nath, Paira Lal, Roshan Lal, Ajmer, Ram Kishan, Parbhu Ram and Madan Lal are valid and justified? If not so to what relief are they entitled?"

The workmen raised an industrial dispute by serving demand notice dated 13th July, 1989 under section 2-A of the Act. The conciliation proceedings were taken by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate Government made the above mentioned reference.

On receipt of the reference notices were issued to the workmen as well as the management. The workmen appeared and filed their claim statements. The management also filed written statements to the claim statements.

The Workmen submitted their replications controverting the allegations of the written statements filed on behalf of the management and reiterating those made in the claim statements. On the rival contentions of the parties the following points in issues were laid down for decisions :-

1. Whether the termination of the services of S/Shri Paras Ram, Garibu, Ram Phal, Amar Singh, Ramesh Krishan, Amar Nath, Paira Lal, Roshan Lal, Ajmer, Ram Kishan, Parbhu Ram and Madan Lal are valid and justified. If not so, to what relief are they entitled? OPP
2. Whether petitioners claim is barred by time? OPM
3. Whether petitioners have no cause of action against the State? OPM
4. Whether petitioners themselves abandoned their services? OPM
5. Relief.

Parties were permitted to lead evidence by way of affidavits and documents who produced their respective affidavits and counter-affidavits. I have heard the representatives of the parties. My findings are as under :-

Issue No. 1:

All the workmen numbering 13 adduced their evidence in the form of affidavits, which are Ex. W-1 Ex. W-4, W-7, W-9, W-12, W-15, W-18, W-21, W-24, W-27, W-30 W-33 and Ex. W-36 and closed their evidence. The respondent-management also adduced evidence by filing affidavits Ex. M-1 to Ex. M-13. Both the parties also filed their counter-affidavits Ex. W-39 to Ex. W-51 and Ex. M-14 to Ex. -M-26. All these affidavits are to be read as evidence of the parties. The workmen alongwith the affidavits also placed on record the judgements Ex. W-2, 5, 10, 13, 16, 19, 22, 25, 28, 31, 34, and 37 of Shri S. D. Anand, Additional District & Sessions Judge, Presiding Officer, Labour Court, Ambala as given by him in their applications under section 33-C (2) of the Act for claiming equal pay for equal work.

I have heard the representatives of the parties and have also gone through the record. The perusal of affidavits of the workmen reveal that they had completed more than 240 days of service and their services were terminated by the respondent-management because of the reason that they had filed an application before the Labour Court under section 33-C(2) of the Act and having grouse of this action of the part of the workmen, the respondent-management dispensed with their services without any prior notice or without payment of retrenchment compensation as per provisions of Industrial Disputes Act, 1947. It is alleged that one Shri Rattan Singh similarly placed had also earlier filed an application under section 33-C(2) of the Act and since he lateron withdraw the said application his services were not dispensed with. According to the workmen, they were thus treated differently, and their services were illegally terminated when they have worked with the respondent-management for a period of nearly ten years or so. The respondent-management in any case in their short affidavit one stated that the workmen has not completed 240 days and they abandoned the job themselves and thus they are not entitled to any compensation. The perusal of the judgement of the court of Shri S. D. Anand, Presiding Officer, Labour Court, Ambala dated 12th October, 1990 Ex. W-2, 5, 10, 13, 16, 19, 22, 25, 28, 31, 34, & 37 as given on application under section 33-C (2) some how clearly show that the workmen had been working with the respondent-management in some cases since 1980 in any case for a period of more than 240 days. This position stands, admitted by the respondent-management is clear from the order of the Court where by the workmen were entitled to be paid on the basis of salary paid to the regular employees on the principles of equal pay for equal work. It thus does not lie in the mouth of the respondent-management to say in their affidavits lateron that the workmen had not completed 240 days of service in a calander year. The respondent-management had also not been able to explain as to why and what circumstances Rattan Singh, a similar place workman was treated differently. There appears to be some truth in the assertions of the workmen that they were terminated only because of their having gone to the Labour Court by way of having filed application under section 33-C (2) of the Act. It is clear that the workmen were terminated without issuance of any prior notice or payment of retrenchment compensation. In the situation this issue is, therefore, decided in favour of the workmen and against the respondent-management.

Issues No. 2, 3 and 4:

All these issues are not specifically proved and need no specific finding.

Relief.

In view of the findings on issue No. 1, the workmen are entitled to reinstatement with continuity of service and back wages.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 2nd December, 1994

Additional District & Sessions Judge,
Presiding Officer, Labour Court, Ambala.

Endorsement No. 1959, dated the 30th December, 1994.

Forwarded' (four copies), to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District & Sessions Judge,
Presiding Officer, Labour Court, Ambala.